Taming the Green-Eyed Monster: On the Need to Rethink Our Cultural Conception of Jealousy

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ABSTRACT: Western culture tends to view romantic jealousy as innate, and as an inevitable byproduct of romantic love. Relying on findings of empirical research, this Note argues that this view, widespread in America, is invidious. Likely as a result of this view, wrongful acts arising from jealousy are often excused or even condoned. This Note draws evidence from empirical studies on the contribution of jealousy to domestic violence, homicide, and divorce to show how this view can be detrimental to society. Additionally, this Note shows that the dual beliefs that jealousy is innate and inextricable from love are both incorrect. Evidence from cultural psychology and anthropological studies strongly suggests that the expression of jealousy is largely culturally determined. This Note also examines the polyamorist movement in the United States, Canada, and England as evidence both that romantic love can exist independently from jealousy and that jealousy may be controlled. Based on the sum of these findings, this Note goes on to consider societal acceptance of polyamory and polygamy as a potential step toward solving the problems posed by the dominant cultural view of jealousy. By helping to undermine our invidious cultural perceptions of jealousy, this Note argues that such an acceptance might reduce the incidence of jealousy-related problems. The Note concludes by suggesting measures that might be taken toward this end.

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I. INTRODUCTION

"Jealousy is the rage of man."¹ In 1859, these words helped exonerate Congressman David Sickles of murder. Shortly after discovering his wife’s affair with United States District Attorney Philip Barton Key, Sickles shot and killed him—facts which the defense never disputed. Rather, Sickles’ lawyers claimed that he could not be held accountable for the act because he had behaved instinctively. The defense presented jealousy as an immutable part of human nature and a necessary consequence of marital love; violence resulting from such a passion was portrayed as not only inevitable, but justified.²

Such a defense was unprecedented in the United States. The few homicides for which jealousy was offered as part of the defense had until that point failed without exception. Along with its success, the Sickles trial radically reconstructed the traditional view of jealousy. Simultaneously, the public image of jealousy was slowly beginning to evolve. Whereas the narrative of the righteously and violently jealous man was largely absent within Western culture before the Sickles trial, it was repeated in numerous trials afterwards. Unfortunately (for reasons that will become clearer through the course of this Note), its influence can still be seen today.

For centuries preceding the Sickles trial, the prevailing view of jealousy among Western societies was that it was a moral failing that could, and should,
be avoided. By no means treated as an inevitable feature of man, jealousy was, at best, a character flaw, and at worst, a life-threatening disease.

Literature written during the centuries predating the Sickles trial gives us a glimpse at the cultural attitudes toward jealousy then prevalent in Western societies. In twelfth-century retellings of Tristan and Isolt, the love story from which so many writers find inspiration, jealousy was the exclusive province of the antagonist, existing as an obstacle to true love’s happiness. Chaucer’s Canterbury Tales, written in the late fourteenth century, deprecates jealousy more directly through the Miller, who mocks the “jealous carpenter” through narrative while avowing that he himself is not the jealous type. Shakespeare took a much more serious look at the emotion, offering in Othello a compelling portrait of jealousy’s power to undermine rationality and self-restraint and a dramatic illustration of the consequences that can follow. Through the eighteenth century, poets and thinkers underscored such sentiments, regarding jealousy as an ignoble affliction, and offering fervent warnings of its ultimate incompatibility with love.

3. See id.

4. It bears mention that, alongside this negative conception, a positive denotation of the word “jealous” also appeared in earlier times. Derived from its biblical usage and connoting zeal and solicitude, this positive denotation of “jealousy” was later distinguished by John Donne from its more common, negative usage by calling the former “Godly jealousy” and the latter “suspicious” jealousy. See Charles R. Smith, Jealousy: Chaucer’s Miller and the Tradition, 43 CHAUCER REV. 16, 16 (2008). Based on the significant distinction between these usages and this Note’s exclusive preoccupation with jealousy of the latter genre, I have chosen to exclude “Godly jealousy” from my discussion. But see Paul E. Mullen, Jealousy: The Pathology of Passion, 158 BRIT. J. PSYCHIATRY 593, 594 (1991) (implicitly equating the two in arguing that a predominantly favorable view of jealousy dominated Western culture until the last few centuries, which gradually recast the once noble emotion as a pathology).

5. See e.g., BEROUL, THE ROMANCE OF TRISTAN (Alan S. Fedrick trans., Penguin Books 1981); THE ROMANCE OF TRISTAN AND ISOLT (Norman B. Spector, Northwestern Univ. Press 1973). In contrast to the revenge vowed by King Mark, when the noble Tristan comes to believe that Iseult has betrayed him (as he does in several popularizations of the story), he reacts only with grief. See, e.g., BEROUL, supra, at 165; THE ROMANCE OF TRISTAN AND ISOLT, supra, at 85.


7. WILLIAM SHAKESPEARE, THE TRAGEDY OF OTHELLO, THE MOOR OF VENICE. Tricked by his ensign, Iago, Othello is gradually misled into believing his wife committed adultery. His jealousy rises to such a pitch that he ultimately murders her. Significantly, one of the earliest known critics to take issue with this portrayal did so on the grounds that jealousy would not be found in a man of such dignified stature. THOMAS RYMER, Othello: A Bloody Farce, reprinted in THE CRITICAL WORKS OF THOMAS RYMER 133 (Curt Zaminsky ed., Yale Univ. Press 1956) (“[N]ever was any play fraught, like this of Othello, with improbabilities. . . . Othello is made a Venetian General. We see nothing done by him, nor related concerning him, that comports with the condition of a General, or, indeed, of a Man. . . . [H]is Jealousie [is] no part of a Souldiers Character, unless for Comedy.”).

8. For example, poet John Dryden called jealousy “the jaundice of the soul.” THE HIND AND PANTHER (1686), reprinted in 2 THE POEMS OF JOHN DRYDEN 467, 505 (James Kinsley ed., 1958), and, in France, François de la Rochefoucauld asserted that “in jealousy there is more self-love than love,” REFLEXIONES OU SENTENCES ET MAXIMES Morales (5th ed. 1678), reprinted in COLLECTED MAXIMS AND OTHER REFLECTIONS 95 (E.H. Blackmore et al. eds. & trans., Oxford Univ. Press 2008).

9. E.g., JAMES THOMSON, Spring, in 1 THE POETICAL WORKS OF JAMES THOMSON 33, 71 (London, Apollo Press 1801) (describing the “charming agonies of love, whose misery delights,” before adding, “[b]ut through the heart [s]hould jealousy its venom once diffuse, [t]is then delightful misery no more, [b]ut agony unmixed, incessant gall, [c]orroding every thought and blasting all Love’s Paradise.”).
The admired English essayist Joseph Addison in many ways encapsulated this tradition in his hugely popular daily newspaper, The Spectator, in an issue devoted to the topic. "Jealousy," he explained, "[is] a disease . . . of so malignant a nature, that it converts all [the jealous man] takes into its own nourishment." Addison warned of the ways in which jealousy works against love, describing its tendency to alienate the object of affection, perhaps even driving them to eventually become "guilty of the very crimes" the jealous man fears. Consistent with the view of jealousy as a character defect, Addison described those prone to jealousy as tending to be either shrewd and distrustful or afflicted with a chronic sense of inferiority. Even in the men most predisposed toward jealousy, however, Addison held out hope for a remedy. To the wife of every jealous husband, he issued a plea to "devote all her art and application" toward "curing" him of this passion. The woman who succeeds in doing so, Addison assured, "will . . . find the affection of her husband rising towards her in proportion as his doubts and suspicions vanish."

Early American conceptions of jealousy appeared to fit with such assessments, and by several accounts, jealousy was rarely the cause of newsworthy disputes. As Dawn Keetley explains in her article on domestic homicide in antebellum America, spousal homicides of that period were most often precipitated by "simple anger" felt by the husband whose wife failed in the performance of her duties; this was a narrative in which neither love nor jealousy bore any mention. By the mid-nineteenth century, however, this had begun to change. Homicides in which jealousy played a role, rarely mentioned before 1800, began to appear much more frequently. The responses to the first few cases offering jealousy as an explanation for homicide, tried between 1817 and 1833, demonstrated the continued influence of the centuries-old view of jealousy as a moral failing, while at the same time foreshadowing the gradual

10. E.g., Joseph Addison, I ILLUSTRATED MAGAZINE OF ART 305, 306 (1853) ("[Addison] is one of the very few who have figured in the history either of English politics, or English literature, on whose fame no stain has ever been found by friend or foe.").
11. Id. at 305-06 (referring to the "popularity of [Addison's] works" and describing how The Spectator and the other newspapers that Addison helped create were "at all the breakfast tables, and in all the coffee-houses, and the talk of all the town. To confess to not having read them . . . was a confession of a man's own want of taste").
13. Id. at 23 ("It is very natural for such who are treated ill, and upbraided falsely, to find an intimate friend that will hear their complaints . . .").
14. Id. at 24.
15. Id.
16. PETER N. STERN, JEALOUSY: THE EVOLUTION OF AN EMOTION IN AMERICAN HISTORY 24-25 (1989) (describing the factors contributing to colonial Americans being "not much bothered" by romantic jealousy); see also, e.g., Keetley, supra note 2, at 272 (discussing the absence of jealousy as a motive cited for spousal homicide in early U.S. publications).
17. Keetley, supra note 2, at 272.
18. Id. at 276.
In the first such case, William M'Donnough’s lawyers claimed that jealousy and alcohol had exacerbated an underlying condition, caused by brain damage, giving rise to a sort of insanity that freed their client from responsibility for his crime. The jury was unconvincing, siding instead with the prosecution’s counter that the mere presence of jealousy, a passion in which he indulged of his own free will, should preclude an insanity defense. A few years later, John Lechler’s lawyers presented a modification of this defense, subtracting M'Donnough’s neural malady and adding Lechler’s deep love for the wife he killed. They were no more successful. Lechler was sentenced to death for his wife’s murder, and the pamphlet containing his confession decried jealousy as a “direful” passion with the power to destroy “every semblance of [domestic] happiness.”

By 1859, however, the defense began to work. David Sickles’s lawyers described jealousy as an instinct, capable of producing a sort of temporary insanity in any man—in insanity that might lead to violence. Additionally, in what was perhaps the greatest innovation of their narrative, they suggested that jealousy need not be viewed as deplorable. Instead, they argued, submission to jealousy, even in its worst incarnation, was merely “obedience to the will of nature.” As Keetley explains, “[j]ealousy was the powerfully destabilizing emotion that led to Sickles’ temporary insanity . . . . Jealousy was also the indubitably righteous and divinely-granted instinct that both prompted and legitimated the slaying.” Framed by the assertion that it was “the essence of human nature to love woman with a tenderness [incomparable to] any other passion,” Sickles’s lawyers were able to argue that the adulterer deserved punishment. This explanation for the murder should have precluded the insanity defense: a passion that was natural, even justifiable, and liable to overcome any man in his situation was antithetical to the legal definition of “insanity.” However, the jury ignored such contradictions, strongly suggesting the success of the lawyers’ emotion-based appeals. Manifesting a tacit agreement with the defense’s legitimation of jealous rage in the name of love and family, the jury returned a verdict of acquittal.

19. Id. at 276-77.
20. Id. at 277.
21. See id. at 278 (“[T]he person who indulges in the exercise of these passions, and voluntarily uses stimulants which will probably incite them into action, must be answerable for the consequences.”).
22. Id. at 279. Lechler echoed this assessment in his dying confession, calling jealousy “a fiend which destroys . . . happiness . . . more than any passion to which the human family is liable.” Id. at 276.
23. Id. at 282.
24. Id. (quoting lawyers).
25. Id. at 282-83.
26. Id. at 287.
27. Id. at 283, 296 n.58; see id. at 284 (explaining how John Graham, one of Sickles’s lawyers, “brilliantly” (if improperly) fused the separate defenses of insanity and provocation, “making” a case both for a temporary insanity that was rooted in provoked passion, and also for a provoked passion that, rather than merely reducing the charge to manslaughter, “should acquit completely”).
28. See id. at 284.
Today, one might suppose that such a case would turn out differently. The contemporary de-emphasis of the husband’s role of protector and the inviolability of the marital bond, coupled with the insanity defense’s heightened standards and lowered esteem, would seem to ensure this. However, the extent to which America’s conception of jealousy has evolved from that portrayed in the 150-year-old Sickles’s trial is not entirely clear. Striking in its similarity to what was argued in Sickles’s trial, the account of jealousy offered by evolutionary psychologist David Buss in 2000 described it as a “dangerous passion” carried by “modern men” that evolved to aid with the preservation of long-term love relationships. “Love and jealousy are intertwined passions,” he explained, “[t]hey depend on each other and feed on each other.” A trio of studies conducted in 2003 portrayed an America in which jealousy was viewed to be such an important sign of love that the man who appears immune to it was judged to be less loving than the one that strikes his wife because of it. The Sickles trial’s depiction of jealousy continues to exert a powerful influence over the American psyche.

In this Note, I hope to show that this conception of jealousy, as both innate and inextricable from love, is invidious, and that it leads to a greater tolerance of jealousy to the detriment of our society. I argue that we ought therefore to take reasonable steps toward undermining it. In making this argument, I will draw from cultural and affective psychology and anthropology to show how numerous studies support the notion that jealousy and the way it finds expression are far more culturally mediated than innate. I will undermine the conception of jealousy that links it to romantic love primarily through an examination of polyamory, a movement that has enjoyed increasing popularity in the last few decades. Meaning, literally, “many loves,” polyamory is a secularized version of polygamy that operates on the premise that both men and women in the relationship have the option of being involved with additional partners, and rests on various tenets that make it a useful illustration of the way that love might be conceived of separately from jealousy. Ultimately, I

30. Id. at 14.
32. Because this conception has tended to exonerate jealous men from blame for their actions and because much of the harms associated with jealousy appear most often to be perpetrated by men, see infra Section II.B, it may seem that my primary concern in this Note is with jealous men. However, while it is true that I find the sort of “masculine” jealousy condoned by theorists like Buss, see supra notes 29-30 and accompanying text, particularly worrisome, I am also concerned about aspects of the dominant cultural conception of jealousy and the negative consequences that flow from it that are less gender-specific. Therefore, though the examples I give to illustrate society’s lenience toward jealousy may most often involve jealous men, my arguments against such lenience extend to jealous women as well.
argue that a greater acceptance of polyamory, by helping to modify the dominant assumption of love's exclusivity and the invidious view of jealousy that this perception tends to encourage, can also help reduce the incidence of jealousy and the widespread negative effects that it can have on society and our relationships, monogamous or otherwise.

In Part II, I explore jealousy in contemporary America—its destructive effects, the way it is viewed by society, and how that view ought to be reconsidered given empirical findings in psychology and anthropology. Also in Part II, I introduce polyamory as a movement that, by its very existence, ought to call into question our common views regarding the connection between love and jealousy. In Part III, I discuss various arguments for why relationship styles such as polyamory ought to enjoy more widespread acceptance, including my own view that such acceptance might help to change the cultural view of jealousy in ways that could have a positive impact on our society. I close Part III by discussing some preliminary ways in which such a goal could be advanced. Part IV offers a brief conclusion.

II. JEALOUSY IN CONTEMPORARY AMERICA

A. Disambiguation of Terms

Before beginning the discussion of the effects of jealousy and how it is perceived in contemporary America, the word “jealousy” deserves some further clarification. Though often used interchangeably with “envy,” theorists tend to agree that the two are separate phenomena.34 “Envy” occurs when a person lacks some quality or possession that another has, and which he desires.35 Jealousy, on the other hand, involves the fear of losing a relationship which one already has.36 Though a variety of situations may elicit jealousy,37 this paper will continue to use the term “jealousy” to denote jealousy in the context of romantic relationships. This type of jealousy, which some theorists label “sexual jealousy,” may be defined broadly as “the aversive emotional response that is triggered by the real or imagined sexual attraction between the partner in a romantic relationship and a third person,”38 where “this attraction is felt as a

34. See W. Gerrod Parrott & Richard H. Smith, Distinguishing the Experiences of Envy and Jealousy, 64 J. PERSONALITY & SOC. PSYCHOL. 906, 906 (1993), for a summary of some of the philosophers, psychologists, and social scientists who have maintained this distinction in their work.
35. Id.
36. Id.
37. For example, a mother spending more time with one sibling than another, or a best friend growing closer to someone else.
threat either to one's self-esteem or to the relationship.” If “aversive emotional response” sounds vague, it is intentionally so, as theorists disagree over what exactly the emotional response consists of, whether it is a single emotion or a constellation of emotions, which emotions are experienced, and whether they are experienced simultaneously or sequentially.

A word should also be said about the way in which this paper will use the notion of “romantic love.” In delineating this ideal, I will adopt the same definition that James Donovan used in an article arguing the inherent incompatibility between nonmonogamy and romantic love on the grounds that “romantic love should necessarily be exclusive.” Thus, “romantic love” will be used to mean “any intense attraction that involves the idealization of the other, within an erotic context, with the expectation of enduring for some time into the future.” In examining the question of whether romantic love necessarily entails jealousy, I will not, therefore, be asking whether we tend to think of romantic love as entailing jealousy, but will be asking the more specific question of whether an “intense attraction that involves the idealization of the other, within an erotic context, with the expectation of enduring for some time into the future” does, by its nature, entail jealousy. In other words, is it in fact possible for someone to be intensely attracted to and idealize another, within an erotic context, with the expectation of those feelings enduring for some time into the future, and still be willing to share that person with someone else?

B. Jealousy as a Destructive Force

Jealousy, that dragon which slays love under the pretence of keeping it alive.

– Havelock Ellis (1859-1939)

As perceptions of jealousy shifted in the mid-nineteenth century, so did the incidence of spousal violence. According to Randolph Roth, “[I]ethal marital violence increased from the late 1820s through the Civil War,” including a

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40. See Harris & Darby, supra note 38, at 548-49, for a brief overview of this debate.
42. Id. (quoting William R. Jankowiak & Edward F. Fischer, A Cross-Cultural Perspective on Romantic Love, 31 ETHNOLOGY 159 (1992)).
43. I make this point because the fact that American culture views romantic love as requiring jealousy only tells us what we believe, not whether that belief is justified.
44. HAVELOCK ELLIS, LITTLE ESSAYS ON LOVE AND VIRTUE 100 (1922).
45. See Keeley, supra note 2, at 290 n.12.
tenfold increase in wife murder between 1848 and 1865. Though correlation of this sort cannot establish causation, the close link between jealousy and harm to society offers a compelling body of circumstantial evidence for such a conclusion.

First, the effects of jealousy on society can be deadly, as it is a powerful motivator for both homicide and abuse. In several studies that examined motives for nonaccidental homicides across cultures, “jealousy” consistently ranked third or fourth on the list. This ranking might actually under-represent the role that jealousy plays in such homicides, however, as the motives ranking higher might overlap with or encompass jealous disputes. For example, in Marvin Wolfgang’s trendsetting study of the summary police files of spousal homicides in Philadelphia, the first and second most common motives—"altercation of relatively trivial origin" and "domestic quarrel," respectively—were both quite vague. Lending credence to the suspicion that jealousy might come into play in more homicides than simply those labeled by the police as “jealousy-caused,” Catherine Carlson looked at the case files for thirty-six spousal homicides in Canada, only four of which were so-labeled, and found numerous other instances where jealousy played a dominant role. For example, in one case classified as motivated by “anger or hatred,” the accused, in his statement to the police said, “she said that . . . she had fucked this other man about ten times. . . . I was really mad. I went to the kitchen and got the knife. . . . I don’t know why I killed the woman, I loved her.” The possibility that jealousy may lead to many more homicides than those found in police reports suggest has led some theorists to claim that it is the most common motivation for spousal homicides in North America.

Even in cases not rising to the level of homicide, the harm of jealousy is felt. Women at shelters commonly cite jealousy as giving rise to their partner’s abuse, and at least one study has found that more than fifteen percent of the men and women surveyed in a particular community reported having been the

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47. See Harris & Darby, supra note 38, at 562-63 (citing MARTIN DALY & MARGO WILSON, HOMICIDE 196 (1988); Christine R. Harris, A Review of Sex Differences in Sexual Jealousy, Including Self-Report Data, Psychophysiological Responses, Interpersonal Violence, and Morbid Jealousy, 7 PERSONALITY & SOC. PSYCHOL. REV. 102 (2003)).
48. See DALY & WILSON, supra note 47, at 174 (citing MARTIN WOLFGANG, PATTERNS IN CRIMINAL HOMICIDE (1958)).
49. Though Canada and the United States are separate countries, the similarities between the two are great enough that I believe such statistics may still be seen as informative.
51. Id.
52. See Paul E. Mullen, Jealousy and Violence, 5 H.K. J. PSYCHIATRY 18, 19 (1995) (citing Martin Daly et al., Male Sexual Jealousy, 3 ETHOLOGY & SOCIOBIOLOGY 11 (1982)).
victim of a jealous partner’s physical aggression.\textsuperscript{54} Furthermore, in contravention of the notion that love and jealousy are necessarily entwined, one study that looked at jealousy in four groups of married men\textsuperscript{55} found that married men who abused their wives were significantly more jealous than happily married, nonviolent men.\textsuperscript{56} Though not conclusive, these results suggest that jealousy might, in part, fuel a propensity toward violence. Indeed, in one study asking men their reasons for battering their partners, the most common response was anger at supposed infidelity.\textsuperscript{57}

Second, even setting violence aside, and despite whatever positive consequences jealousy may elicit, the destruction jealousy wreaks on relationship quality is striking. While in the study discussed above, abusive men were found to be significantly more jealous than happily married, nonabusive men, unhappily married nonabusive men fared no better than the former. As with the maritally violent men, unhappily married men revealed levels of jealousy that were significantly greater than their happily married counterparts, suggesting, at the least, a link between jealousy and marital dissatisfaction.\textsuperscript{58} And indeed, studies exist to suggest that jealousy may be a proximate cause to the dissolution of many marriages.\textsuperscript{59} In one such study, investigators tracked the success of marriages over a span of twelve years to observe which marital problems reported at the beginning of the study were linked to divorce later on.\textsuperscript{60} Jealousy was found to be one of the most consistent predictors of divorce,\textsuperscript{61} and the predictor that most quickly led to divorce.

Third, the jealous individual also suffers. Studies have linked jealousy to loss of self-esteem, showing that individuals who are particularly inclined toward jealousy (those exhibiting high “trait jealousy”) suffer bigger blows to their self-esteem and greater anger when confronted with the loss of a loved one to a rival compared to individuals who are not prone toward this emotion

\begin{itemize}
  \item \textsuperscript{54} See id. at 562-63.
  \item \textsuperscript{55} The groups were distinguished on the basis of marital violence, experience with counseling, and marital satisfaction such that they were (1) maritally violent men who had not received counseling, (2) maritally violent men who had received counseling, (3) non-maritally violent men who were satisfied with their marriage, and (4) non-maritally violent men who were dissatisfied with their marriage. See id., at 475. Because none of the differences observed between the two maritally violent groups are relevant to this Note, I will tend to lump these two groups together in this discussion.
  \item \textsuperscript{56} Ola W. Barnett, Thomas E. Martinez & Brendon W. Bluestein, Jealousy and Romantic Attachment in Maritally Violent and Nonviolent Men, 10 J. INTERPERSONAL VIOLENCE 473, 482 (1995).
  \item \textsuperscript{57} Mullen, supra note 52, at 18 (citing N.J. Brisson, Battering Husbands: A Survey of Abusive Men, 6 VICTIMOLOGY 338 (1983)).
  \item \textsuperscript{58} Barnett et al., supra note 56, at 482.
  \item \textsuperscript{59} See Harris & Darby, supra note 38, at 547.
  \item \textsuperscript{60} Paul R. Amato & Stacy J. Rogers, A Longitudinal Study of Marital Problems and Subsequent Divorce, 59 J. MARRIAGE & FAM. 612 (1987).
  \item \textsuperscript{61} Id. at 618-19. Importantly, “infidelity” was offered as a separate category here. We may therefore attribute the problems caused by “jealousy” to those arising from the mere suspicion or fear, and not discovery, of an extramarital affair.
\end{itemize}
(those exhibiting low “trait jealousy”). Though not necessarily indicative of causation, jealousy has been shown to correlate with anxiety, insecurity, dissatisfaction with life, neurosis, and external locus of control, among other traits.

Nevertheless, we might excuse these defects if jealousy were shown to serve some positive function that outweighed them. Some contemporary theorists have sought to detail the positive effects of jealousy, suggesting that it may serve as a mechanism that can alert the individual to something amiss in his relationship so that he will be motivated to take conciliatory action to improve it. Of course, this positive effect of jealousy would seem to only hold when there is in fact a problem with the relationship to which the jealousy alerts and when the jealous individual is in fact motivated to engage in action to strengthen the relationship and does so, rather than, for example, responding destructively. Experience tells us that there are many instances in which one if not both of these conditions fails to hold: when jealousy is caused by misplaced suspicion or lack of trust, and/or motivates unconstructive arguments or violence. Any role that jealousy plays in strengthening a relationship remains largely speculative while its destructive effects, both on relationships and on society as a whole, are well-known.

C. Societal Views of Jealousy

Despite all the negative consequences that may be associated with jealousy, American society appears not only to tolerate it, but to endorse it. Our culture seems to embrace the notion commonly attributed to St. Augustine that “he that is not jealous is not in love,” and to regard jealousy as an inevitable facet of human life. In so doing, we have resigned ourselves to its existence. As I discuss in this section, this view is not only manifest in popular media, but also reflected in our laws. Endorsement of this view is far from benign. In endorsing jealousy, we encourage it, and this encouragement may lead to many of the problems discussed above.

64. Harris & Darby, supra note 38, at 547.
65. E.g., Buss, supra note 29, at 27 (attributing this adage to Augustine); Mullen, supra note 4, at 594 (same). Despite popular interpretations of this quote as referring to “suspicious jealousy,” see supra note 4, it warrants observation that Augustine most likely intended “jealousy” to denote the “Godly” iteration. See id.
66. See supra Section II.B.
A trio of studies conducted by Sylvia Puente and Dov Cohen offers compelling evidence of our culture’s tendency to link jealousy, even violent jealousy, to love. The first study examines the extent to which jealousy is viewed as a sign of love. The researchers present subjects with three potentially jealousy-inducing scenarios: one relatively innocuous, one flirtatious, and one that involves cheating. Participants read about two husbands, one who showed signs of jealousy as he imagined each of the scenarios and one who did not. Participants were asked to rate the husbands on their level of romantic love, among other measures. Perhaps unsurprisingly, the jealous husband was rated as significantly more loving than the non-jealous husband in both the flirting and cheating scenarios. More remarkable is that, even in the innocuous scenario, the jealous husband was rated as more loving.

Driving home the importance of this finding, the second and third studies offer evidence that violence arising from jealousy is seen as excusable and indicative of love. One of these two studies presented subjects with recordings of a husband detailing a marital conflict, either jealousy-related or non-jealousy-related. The study then depicted the husband’s reaction as either (1) hitting his wife (in both scenarios) or (2) not hitting his wife and simply leaving because he “gets jealous” (in the jealousy-related scenario) or (3) not hitting his wife and going for a walk to blow off steam (in the non-jealousy-related scenario). Although husbands who hit their wives over non-jealousy-related conflicts were perceived as less romantically loving than those who reacted nonviolently, in the context of jealousy-related conflicts, violence appeared to lose all its negative force. In that scenario, the man who reacted violently was seen as just as loving as his nonviolent counterpart, even trivially more so. It is worth noting, moreover, that this man, despite his violence, was actually perceived as more loving than the man who did not hit his wife over the non-jealousy-related conflict, suggesting that distress in response to a jealousy-related conflict is interpreted as an affirmative signifier of love, regardless of how it is handled.

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68. Id. at 451 ("Imagine that you are walking down the street and see your wife laughing and talking to a man you don’t know.").
69. See id. ("Imagine you are walking down the street and you see your wife talking to a man you don’t know. Your wife keeps touching the other man’s thigh. At one point, she leans over to whisper something in his ear and then kisses him on the cheek.").
70. See id. ("Imagine that you came home and found your wife in bed having sex with another man.").
71. Id. at 452.
72. Id.
73. Id.
74. Id. at 453.
75. Id. at 454. The violent husband was rated, on average, as slightly more loving than the nonviolent husband in this scenario (a mean rating of 4.36 on a five-point scale for the former as compared to 4.22 for the latter), however, this result was not significant. Id.
76. Id.
views jealousy as a necessary indicator of love, and that violence due to jealousy may be regarded more sympathetically than other sorts of violence.

Several of our laws, as well as certain features of our criminal justice system, may be seen as codifying this view. First, there is the state’s attitude toward nonmonogamous relationships. Not only do our marriage laws refuse to recognize nonmonogamous unions, polygamy is criminalized throughout much of the country. Second, adultery is still outlawed in at least twenty-three states as well as the District of Columbia. Though prosecutions based on these laws are rare, it is not entirely clear that this is due to public disagreement with the principle that underlies them. Since 2003, Gallup has surveyed over a thousand Americans on their views of the moral acceptability of seventeen hot-button social issues, including abortion, the death penalty, stem-cell research, and same-sex relationships. Every year the poll has been administered, adultery has ranked at the bottom, below cloning humans, suicide, and pornography. In 2012, eighty-nine percent of the sample considered adultery to be morally wrong. Until 2012, polygamy has consistently ranked just above adultery as the second most-deplored issue on the list.

The traditional manslaughter reduction for “crimes of passion” is also reflective of a tolerance of jealousy. Some version of this reduction is in force in every jurisdiction within the United States. While the reduction of murder to the lesser charge of manslaughter originated in England only in situations of physical attack or mutual combat, the common law eventually expanded it to include killings at “the sight of adultery.” As the Court of Queen’s Bench explained, “[J]ealousy is the rage of a man, and adultery is the highest invasion of property. . . . [A] man cannot receive a higher provocation.” This law of provocation, which soon made its way into the United States legal system,

77. See infra Section III.A.
78. See Elizabeth F. Emens, Monogamy’s Law: Compulsory Monogamy and Polyamorous Existence, 29 N.Y.U. REV. L. & SOC. CHANGE 277, 290 n.50 (2004), for a well-enumerated list of state statutes and sources discussing these laws.
79. Id.
81. Id.
82. In 2003, ninety-two percent surveyed considered polygamy “morally wrong,” a number that peaked three years later at ninety-three percent. Since then, the percentage has slowly dropped, but so have the percentages for most of the items, suggesting that this might be more indicative of a general trend toward relaxation of moral opinion on these issues rather than anything specific to this issue. See id.
83. See Victoria Nourse, Passion’s Progress: Modern Law Reform and the Provocation Defense, 106 YALE L.J. 1331, 1331 n.1 (1997) (quoting Peter W. Low et al., Criminal Law: Cases & Materials 884 (2d ed. 1990)). In some jurisdictions, passion or provocation reduces the murder charge from first-degree to second-degree murder, rather than from murder to manslaughter. Id.
84. See Antonia Elise Miller, Inherent (Gender) Unreasonableness in the Concept of Reasonableness in the Context of Manslaughter Committed in the Heat of Passion, 17 WM. & MARY J. WOMEN & L. 249, 256 (2010).
eventually expanded in many jurisdictions to include not only the sight of adultery, but also homicide based on words conveying events that, if witnessed, would have been considered adequate provocation.86

Today, a number of jurisdictions follow the Model Penal Code formulation that broadens the defense beyond specific enumerated situations to include any homicide under the influence of “extreme mental or emotional disturbance for which there is reasonable explanation or excuse.”87 As Victoria Nourse has shown, this reform, though intended to humanely eschew a one-size-fits-all conception of what may lead to the loss of self-control, has made it even easier for a jealous lover to receive the manslaughter reduction.88 This reformed view of provocation, extending beyond the limits of adultery cases, has been applied to rage felt over a fiancée dancing with another,89 an ex-girlfriend deciding to date someone else,90 and an ex-wife moving on after separation.91

These laws may be seen as indirectly encouraging jealousy. With the force of law behind the mandate to stay faithful, society may understand fears over infidelity to be legitimated. The traditional manslaughter reduction for “crimes of passion” may even encourage jealousy-fueled violence. The rule for determining whether provocation is adequate has traditionally been whether the provocation was “sufficient to excite passion in a reasonable person?”92 By suggesting that a reasonable person would lose control at the discovery of adultery, presumably due to jealousy, this law appears sympathetic to jealousy as a motive and defense for violence. Based on an extensive study of postwar homicide patterns, Dane Archer and Rosemary Gartner developed what they term the “legitimation of violence” model, hypothesizing that when acts of violence occur, and especially when those acts are not condemned, general attitudes shift toward the use of violence, and thresholds for resorting to

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87. MODEL PENAL CODE § 210.3(1)(b) (1980); 1 CRIM. L. DEF. § 102 n.9 (2012) (listing state statutes conforming to the MPC formulation).

88. See Nourse, supra note 83, at 1332-33.

89. Id. (citing Dixon v. State, 597 S.W.2d 77, 78-79 (Ark. 1980)).

90. Id. (citing Rodebaugh v. State, No. 436, 1990 WL 254365, at *2 (Del. Nov. 27, 1990)).

91. Id. (citing State v. Rivera, 612 A.2d 749, 750-51 (Conn. 1992); State v. Wood, 545 A.2d 1026 (Conn. 1988)).

92. State v. Watkins, 126 N.W. 691, 691 (Iowa 1910) ("[T]he provocation must be sufficient to excite passion in a reasonable person"); see, e.g., People v. Simpson, 384 N.E.2d 373, 374 (Ill. 1978) (defining the sort of "serious provocation" sufficient to reduce a count to "voluntary manslaughter" as "conduct sufficient to excite an intense passion in a reasonable person"); State v. Fisko, 70 P.2d 1113, 1116 ( Nev. 1937) ("In cases of voluntary manslaughter, there must be a serious and highly provoking injury inflicted upon the person killing, sufficient to excite an irresistible passion in a reasonable person"); State v. Robinson, 616 P.2d 406 (N.M. 1980). The Model Penal Code reform changes this only inasmuch as the standard of "reasonableness" is given greater subjectivity, to apply to a person in the defendant’s "situation." MODEL PENAL CODE § 210.3(1)(b) (1980).
violence fall.93 If this is true, one could see how the message sent by the 
man slaughter reduction—that violence based on jealousy is at least somewhat 
understandable—might also lead to more of the same.

Thus, our laws may both arise from and legitimate the cultural view of 
jealousy that studies such as those conducted by Puente and Cohen suggest we 
already endorse.94 Under the dominant framework, jealousy is seen as an 
inevitable accompaniment to love and is viewed with sympathy and 
understanding rather than censure. However, as discussed earlier, jealousy is 
far from benign, and as a culture we should therefore be interested in 
minimizing, rather than encouraging, its effects. Moreover, this dominant view 
of jealousy might be more problematic still if it were shown that societal 
endorsement of a certain emotional response could contribute to the increased 
expression of such a response. Unfortunately, that is exactly what the evidence 
suggests. As discussed earlier,95 incidents of jealousy-related homicide and 
domestic violence rose just around the time that our current view of jealousy 
began to take shape. While such evidence might only be circumstantial, 
research in psychology further supports the plausibility of causation by 
demonstrating the extent to which certain emotions may be culturally 
constructed.96

One such example comes in the form of the work of James Averill. Using 
the example of romantic love, Averill has shown that beliefs about the romantic 
ideal may influence the retrospective accounts of persons who espouse them.97 
In a study he performed, Averill presented participants with examples of people 
falling in love according to the traditional romantic ideal, defined here as 
involving, among other things, “idealization of the other, suddenness of onset, 
absorption in thoughts about the other, and a willingness to make 
sacrifices.”98 Participants were then asked to rate how closely their own experiences 
resembled those presented.

There are two types of response distributions one might expect to see for 
such a question. If self-reported experiences with love tend to be similar across 
circumstances, one might expect to see a bell-shaped curve clustered around the 
partial value on the scale most often identified in such reports.99 On the

to Postwar Homicide Rates, 41 AM. SOC. REV. 937, 943 (1976).
94. See Puente & Cohen, supra note 31.
95. See supra Part I.
SOCIAL CONSTRUCTION OF THE PERSON 89 (Kenneth J. Gergen & Keith E. Davis eds., 1985) 
[hereinafter Averill, Social Construction]. See generally James R. Averill, A Constructivist View of 
Emotion, in I THEORIES OF EMOTION 305 (Robert Plutchik & Henry Kellerman eds., 1980) (providing a 
more in-depth explanation of the social-construction theory of emotions) [hereinafter Averill, 
Constructivist View].
98. Id. at 92-93.
99. Id. at 92.
other hand, if self-reported experiences with love are each unique, resisting generalization, one might expect to see a random distribution in response to this question. The study did not obtain either of these results. Instead, the results presented a U-shaped curve, with many participants reporting a relationship that closely resembled the traditional ideal, many others reporting no resemblance, and few falling in the middle.\textsuperscript{100} Important for our purposes is the variable that appeared to account for this distribution: specifically, attitudes toward the romantic ideal. Averill found that the two groups of individuals falling on either end of the spectrum could be differentiated by such attitudes, with one group viewing it favorably, and the other unfavorably.\textsuperscript{101} Individuals who espoused a favorable attitude toward the "romantic ideal" of love reported having had experiences closely resembling this ideal. This was so even though, upon further investigation into the description given by each individual of his or her own experience, it was found that less than a quarter of those who claimed a close resemblance\textsuperscript{102} had actual experiences that closely conformed to the paradigm. This finding suggests that many of these participants were simply motivated to view their experiences as conforming to the romantic ideal, and to ignore those aspects that did not conform. Conversely, those who reported having experiences bearing little to no resemblance to the paradigm tended to be those who indicated unfavorable views of the romantic ideal.\textsuperscript{103}

Averill sees this as evidence not only for the retrospective rationalization of past behavior and emotions in accordance with some favorably viewed cultural paradigm, but also for the possibility that this effect might work prospectively as well.\textsuperscript{104} As he notes, "[p]eople are thoroughly capable of anticipating how they will respond in a given situation, and of interpreting their behavior before the fact."\textsuperscript{105} Averill thus likens an emotional paradigm to a "set of blueprints or rules for the construction of behavior."\textsuperscript{106} If Averill is correct, then the inclusion of jealousy in one such paradigm might do more than simply affect our attitudes toward jealousy—it might actually affect our behavior as well. That is to say, if jealousy is part of the blueprint for our cultural paradigm of romantic love, we might be motivated to feel and behave in jealous ways.

Given the often devastating effects of jealousy, this would be extremely problematic. If Averill's theory is true, therefore, our conception of the inevitability of jealousy as a byproduct of love and an innate feature of the human condition might well be a cause for concern. Before resigning ourselves

\textsuperscript{100. Id.}
\textsuperscript{101. See id. at 93.}
\textsuperscript{102. An 8, 9, or 10, on a ten-point scale. See id. at 92-93.}
\textsuperscript{103. See id. at 93.}
\textsuperscript{104. See id.}
\textsuperscript{105. Id.}
\textsuperscript{106. Id. at 98.}
to this fate, however, we must consider whether this view of jealousy is in fact correct, and, if not, how it might be changed.

D. Rethinking Jealousy

The basic premises underlying our cultural view of jealousy may be summarized as follows: (1) that the experience and expression of jealousy is an inevitable feature of human existence, (2) that jealousy is indicative of romantic love, and (3) that romantic love necessarily entails jealousy. As I have discussed, our cultural view of jealousy, by seeming to encourage its destructive effects, may be invidious. Nevertheless, it would be difficult to argue against this view if it in fact reflected the reality of the situation. Fortunately, there exists ample evidence to suggest that these premises are based on flawed assumptions.

1. Claim One: Jealousy as an Inevitable Feature of Humanity

Some evolutionary psychologists have argued in support of the first premise by theorizing that jealousy developed in humans as a genetic adaptation. Under this view, jealousy confers on men the evolutionary advantage of paternity confidence by ensuring that men will guard against sexual interlopers, thus decreasing the chances that they expend their resources on someone else’s offspring. Jealousy functions in females, on the other hand, as a motivator of behavior aimed at retaining a woman’s sexual partner, so that he continues to expend his resources on her and her offspring rather than someone else. As a result, proponents of this theory hypothesize that men should be more upset over sexual infidelity while women should be more concerned with emotional infidelity.

A preliminary survey administered by David Buss appears to offer validation for this notion. In that study, experimenters asked a sample of college students to imagine scenarios in which their partners were having sexual intercourse with another person alongside scenarios in which their partner was forming an intimate connection with another person, and to report which scenario would make them more upset. Results demonstrated that men were far more likely than women to anticipate greater emotional distress over the sexual infidelity scenarios as compared to emotional infidelity.

108. See id.
109. See id.
110. See id.
111. Id.
112. See id. at 252.
113. Id.
Subsequent lines of research have cast doubt on these results. Hypothetical forced-choice measures like the ones given in Buss et al.’s study fail to show convergent validity with other measures of hypothetical jealousy, psychophysiological indices, and people’s retrospective accounts of their reactions to a partner’s infidelity.\footnote{114} Of particular note is that studies examining people’s reactions to real, rather than hypothetical, jealousy fail to elicit the same sex differences, finding, for example, that both men and women focus more on the emotional aspects of sexual betrayal than the physical aspects,\footnote{115} and that, in general, men and women have similar reactions to their partner’s infidelity.\footnote{116} The results in response to the forced-choice hypothetical surveys, in which men predict a greater level of distress over sexual infidelity than emotional infidelity, might actually reveal more about what each sex perceives to be the appropriate response with respect to their gender, rather than any sort of innate preferences that are actually felt.

Even if sex differences in jealousy do not conform to the precise evolutionary prediction, however, this does not in itself disprove that jealousy is an inevitable feature of humanity. To undermine this notion, we turn to findings in cultural psychology and anthropology. A review of numerous cultures across the world has led to the observation that jealousy, and jealousy-induced behavior, far from being universal, is quite culture-specific.\footnote{117} As Ralph Hupka observes, in some societies, individuals are easily threatened by the sorts of events we might expect to provoke jealousy, while in other societies those events do not appear to cause alarm.\footnote{118} Rather than being innate, Hupka argues, a given culture’s attitudes toward potentially jealousy-inducing events are embedded in the culture’s “religious, moral and economic beliefs.”\footnote{119} As he explains:

\begin{quote}
We are not born with the desire to evaluate the interaction of our mate with another person as a threat to our well-being. We learn when we should become concerned, why we should interfere, and how we can stop them. What we look for, how we appraise it, and why we appraise
\end{quote}

\footnote{114} See Harris & Darby, supra note 38, at 561. For an in-depth discussion and meta-analysis of the research investigating the evolutionary perspective’s prediction of sex differences in jealousy, see Harris, supra note 47.
\footnote{115} See Christine R. Harris, Sexual and Romantic Jealousy in Heterosexual and Homosexual Adults, 13 PSYCHOL. SCI. 7, 10-11 (2002).
\footnote{117} See, e.g., Buunk & Hupka, supra note 38, at 13; Ralph B. Hupka, Cultural Determinants of Jealousy, 4 ALTERNATIVE LIFESTYLES, 310, 310-11, 333 (1981); Margaret Mead, Jealousy: Primitive and Civilized, in JEALOUSY 116 (Gordon Clanton & Lynn G. Smith eds., 1977).
\footnote{118} Hupka, supra note 117, at 311.
\footnote{119} Id. at 348.
Rethinking Our Cultural Conception of Jealousy

...it in the manner that we do, involve cognitive processes which are influenced by the cultural milieu in which we live.\textsuperscript{120}

Might a culture's view on romantic love be one of the factors influencing these processes? Hupka does not address the question specifically. In a subsequent study with a colleague,\textsuperscript{121} however, he does find empirical support for the notion that a culture's customs and attitude toward pair-bonding accounts for a significant amount of the variation between cultural expressions of male jealousy,\textsuperscript{122} with the culture's attitude toward sexual gratification demonstrating some influence as well.\textsuperscript{123}

It is true that such studies do not necessarily disprove the claim that jealousy is in some sense innate, as it could still be that, despite Hupka's postulations, we are naturally disposed to feel jealous in certain circumstances and societies, and that where this disposition is not evident, we have simply socialized people in such a way as to suppress this inclination. What concerns us here, however, is not simply the belief that jealousy is innate, but that it is \textit{inevitable}; and what such studies do suggest is that jealousy, or at least its expression, is anything but. Far from innate, the way people come to experience and express their jealousy appears largely to be a product of their culture; and since it is the experience and expression of jealousy that should give us cause for worry, and not merely the capacity for such feelings, these findings ought to be considered a significant challenge to our conventional view that jealousy is ingrained and unavoidable.

2. Claim Two: Jealousy as Indicative of Romantic Love

One might argue that even if jealousy is not an inevitable facet of human existence, jealousy may still be a reliable indicator of romantic love; in other words, even if jealousy is not universal and unavoidable, where it \textit{is} felt and expressed, it owes its existence to feelings of romantic love. This should strike us as incorrect for a few reasons. First, it is not difficult to imagine the following hypothetical situation: John has romantic feelings for Judy, who is well aware of his feelings but does not return them. One day John turns his attentions instead to Hannah. Perceiving this, Judy feels jealous. Noticing her jealousy, John believes he may stand a chance with Judy after all, and turns his

\begin{itemize}
\item[120.] Id. at 323.
\item[122.] Manifestations of jealousy in the females of these populations were found to be independent from the various factors examined by the authors. \textit{Id.} at 59-60. One explanation for this, however, is that in most cultures, females have fewer options available to them to cope with jealousy situations, particularly some of the more harsh responses. \textit{See id.} at 61.
\item[123.] \textit{See id.} at 59-60 (finding attitudes toward pair-bonding and sexual gratification to account for eighteen percent and six percent of the variation in jealousy behavior, respectively).
\end{itemize}
attentions back to her. Judy once again becomes uninterested. The apparent plausibility of such a scenario heavily undermines the notion that jealousy necessarily indicates romantic love. Judy’s short-lived interest in John bears little resemblance to the “intense attraction” involving “idealization” and the “expectation of enduring for some time into the future”—the features we identified as integral to the concept of romantic love.124

Furthermore, if the view that jealousy indicates love is correct, we might expect to see a positive correlation between the two. Instead, as we saw in a previously discussed study,125 jealousy appears to be higher in men who are unhappily married than in those who are happily married.126 Assuming that marital satisfaction is correlated with greater love, this study undermines the view of jealousy as an indicator of love.

Evidence suggests that jealousy, at least based on a suspected but unconfirmed threat, might often be most accurately viewed as a sign of insecurity. Many of these studies have focused on jealousy as a function of an individual’s relationship attachment style. Individuals who are “securely attached” in their romantic relationships tend to have positive perceptions of themselves and others and to value relationships.127 Perhaps as a result, these individuals tend to have longer lasting and more successful relationships.128 Individuals who are insecurely or “anxiously attached,” on the other hand, tend to have negative self-views, believe themselves unworthy of their partners’ love, and so expect abandonment at some point during the relationship.129 A number of studies have found that, at least where the threat is not completely confirmed, anxiously attached individuals exhibit significantly higher levels of jealousy and jealousy-related behaviors.130

In sum, there appears to be little empirical evidence to support the notion that jealousy is a reliable indicator of romantic love. Instead, a deeper look at our intuitions about jealousy, as well as much of the research on the topic, together serve to undercut that notion.

124. Supra notes 41-42 and accompanying text. Of course it could be that Judy experienced precisely this, just for a short period of time. But a simpler explanation would be that Judy simply enjoys the attention from John, receives a self-esteem boost from it, and would like to retain it.
125. See supra text accompanying notes 57-59 (discussing study by Barnett et al., supra note 58).
126. At least among nonabusive husbands. See id.
127. Harris & Darby, supra note 38, at 553.
128. Id.
129. Id. at 555.
130. See id. at 555-56; see also, e.g., Laura K. Guerrero, Attachment-style Differences in the Experience and Expression of Romantic Jealousy, 5 PERSONAL RELATIONSHIPS 273, 274 (1998) (finding that anxiously attached individuals reported engaging in more jealous behaviors, such as spying on their partners and searching through their belongings); Annette Marie Powers, The Effects of Attachment Style and Jealousy on Aggressive Behavior Against a Partner and a Rival, 61 DISSERTATION ABSTRACTS INT’L 1325, iii (2000) (finding that anxiously attached individuals reported feeling more jealousy at watching a video of an assigned partner flirting with someone else than securely attached and insecure-avoidant individuals).
3. Claim Three: Jealousy as an Inevitable Feature of Romantic Love

Whereas the previous claim focused on the notion that there is jealousy there is necessarily romantic love, we now turn to the claim that where there is romantic love there is necessarily jealousy. To defeat this claim, we must do more than point to the fact that societies exist in which jealousy appears to play little to no role. Since the claim is simply that jealousy is an inevitable feature of "romantic love"—not that jealousy is an inevitable feature of "marriage," "pair-bonding," or "procreational activities"—the response could simply be that those societies that do not exhibit signs of jealousy must lack something similar to our notion of "romantic love." Unfortunately, Hupka's studies did not provide enough information about these non-jealous cultures to allow us to argue otherwise. We must thus respond to this claim by identifying a culture or subculture that appears to endorse a similar notion of romantic love, while at the same time exhibiting little to no jealousy. It might also help to find evidence that jealousy may be reduced or eliminated through effort, thus undercutting the claim that it is inevitable. To do both of these things, we may turn to some subcultures right here in North America and Western Europe.

The first group we might consider is conventionally referred to as "swingers." "Swingers" is a term used to refer to individuals in a married or committed relationship who, with the other's consent and knowledge, each engage in sexual relations with other people. Generally the emphasis is on sex and not emotional connectedness, and many couples even set ground rules aimed at preventing emotional involvement. Given that the vast majority of swingers examined in the literature report being happy with swinging, with most married swingers even crediting it with improving their marriage, it seems reasonable to assume that these individuals either do not


132. See, e.g., Richard J. Jenks, Swinging: A Review of the Literature, 27 ARCHIVES SEXUAL BEHAV. 507, 507 (1998) (adopting the definition of swinging as "exchanging partners solely for sexual purposes" (emphasis added)).

133. See de Visser & McDonald, supra note 131, at 461 (giving "restricted intensity of engagement with extra-dyadic partners" and "no emotional involvement with extra-dyadic partners" as examples).

134. See Jenks, supra note 132, at 517 (citing Richard J. Jenks, A Further Analysis of Swinging (1986) (unpublished manuscript)), for the finding that over 91% of males and 82% of females indicated that they were happy with swinging, with less than 1% of females and no males indicating displeasure.

135. See, e.g., Brian G. Gilmarin, Sexual Deviance and Social Networks: A Study of Social Family and Marital Interaction Patterns Among Co-Marital Sex Participants, in BEYOND MONOGAMY: RECENT STUDIES OF SEXUAL ALTERNATIVES IN MARRIAGE 291 (James R. Smith & Lynn G. Smith eds., 1974) (finding that the majority of swingers sampled felt that their marriage had improved as a result of swinging); Jenks, supra note 132 (providing an overview of the literature on the topic); Eugene E. Levitt, Alternative Life Style and Marital Satisfaction: A Brief Report, 1 ANNALS SEX RES. 455, 459 (1988) (finding that about seventy-five percent of a sample of thirty-three married swingers reported
experience jealousy, or they do not experience enough jealousy to outweigh the perceived benefits of swinging. Supporting this theory, one study found that a sample group of swinging participants scored significantly lower on measures of jealousy than a non-swinging control group.\footnote{Richard J. Jenks, Swinging: A Test of Two Theories and a Proposed New Model, 14 ARCHIVES SEX BEHAV. 517, 524 (1985).} Along the same lines, one organization of swingers notes that swingers typically claim that even if they have not completely overcome jealousy, they have succeeded in reducing its impact.\footnote{Id. at 520.} This is not to say, however, that jealousy is never a problem in swinging relationships. Thirteen percent of the swinging participants sampled in one study, for example, did identify jealousy as a problem.\footnote{Jenks, supra note 132, at 516.} Most studies appear to support the notion, however, that swingers are generally able to manage whatever jealousy they may feel through open communication\footnote{See, e.g., Bram Buunk, Jealousy in Sexually Open Marriages, 4 ALTERNATIVE LIFESTYLES 357, 371 (1981); de Visser & McDonald, supra note 131, at 471.} and the strategies aimed at developing a self-conception independent of one’s partner and learning to accept jealousy.\footnote{Buunk, supra note 139, at 368.} Most people would probably agree that many, if not all, happily married or seriously committed couples in Western cultures are held together by some degree of romantic love, so these relationships between swingers can be adequately described as “romantic relationships.” This absence of jealousy in such relationships thus undermines the view of the inevitability of jealousy in romantic relationships and lends credence to the contrary notion that it may be to some extent within our control.

One might challenge the usefulness of the swinger example by pointing out that swingers are careful to confine their extra-dyadic activities\footnote{Throughout the remainder of the paper, my aim is to be careful not to use “infidelity” with reference to the nonmonogamous activities of individuals whose spouses are aware of and have consented to such activities, as this word implies a breach of trust.} to those of a purely sexual nature. As some of the data discussed earlier suggests, it could be that sexual infidelity, separated from emotional attachment, is simply easier to stomach, and the rules and boundaries set by many swingers might be seen as a testament to this.\footnote{See supra text accompanying notes 114-116.} If this is so, one might argue that perhaps while jealousy over merely sexual extra-dyadic relationships can be mitigated, jealousy felt at the combination of both emotional and sexual relationships with third parties (or perhaps even emotional infidelity alone) remains inevitable and unresponsive to efforts at alleviation.

A counterexample to this claim may be gleaned from another social group that has emerged and gradually gained more momentum over recent decades: the polyamorous. Because of the centrality of this group to the purpose of this
paper, I will now turn to a more thorough discussion of polyamory and its tenets, illustrating how the mere existence of this group helps to disprove the claim of the inevitability of jealousy with regard to romantic love.

E. Polyamory: Refuting the Claim of Jealousy’s Inevitability in Romantic Love

The definition of polyamory, which literally means “many loves,” is somewhat disputed among its practitioners; however, both Loving More, a nonprofit supporting polyamory and “relationship choice,” and the Merriam-Webster Dictionary define polyamory as “the state or practice of having more than one open romantic relationship at a time.” As theorist Elisabeth Sheff explains, “[p]olyamory is a form of relationship in which people have multiple romantic, sexual, and/or affective partners. It differs from swinging in its emphasis on long-term, emotionally intimate relationships . . . .” In other words, polyamory, unlike swinging, does entail extra-dyadic involvement with third parties of the very sort most swingers seek to avoid: emotionally intimate, romantic-love-based relationships. The Loving More website explains, “the point [of polyamory] is love, romance, intimacy and affection with more than one person. . . . Polyamory is about sex to the same degree that any relationship is about sex.” From the evidence, it thus seems that polyamorists fully embrace the ideal of romantic love. While none of the polyamory resources I came across defined “romantic love,” there does not seem to be any reason to believe their definition to be any different from that specified earlier: “intense attraction that involves the idealization of the other, within an erotic context, with the expectation of enduring for some time into the future.”

Can the claim that jealousy is an inevitable feature of any romantic relationship be reconciled with the existence of polyamorists? Because polyamory by definition involves romantic relationships in which at least one party is in a sexually and emotionally intimate romantic relationship with at least two people simultaneously, the supposed inevitability of jealousy would seem to demand that polyamorists feel a good deal of jealousy, and those do

143. See Christian Klesse, Polyamory and Its “Others”: Contesting the Terms of Non-Monogamy, 9 SEXUALITIES 565, 567 (2006) (“Polyamory is a contested term. Its concrete meanings have been an issue of ongoing debate.”).
145. Sheff, supra note 33, at 252.
147. See supra text accompanying notes 41-42.
148. See Emens, supra note 78, at 351-52.
confess to experiencing it report being able to manage it.\textsuperscript{149} As the writer of the FAQs for alt.polyamory, a polyamory-focused online discussion group, explains in response to the question, "What about jealousy?":

Some people seem to have no jealousy; it's as if they didn't get that piece installed at the factory. Others, including some long-term polyamorists, feel jealousy, which they regard as a signal that something needs investigation and care, much as they would regard depression or pain. Jealousy is neither a proof of love (and this is where polyamory differs from possessive or insecure monogamy) nor a moral failing (and this is where polyamory differs from emotionally manipulating one's partner(s) into relationships for which they are not ready).\textsuperscript{150}

Critical examination of the roots of jealousy and whether it stems from something that needs to be worked on appear to be key to managing jealousy for polyamorists.\textsuperscript{151} The polyamorist movement's ethical tenet of radical honesty\textsuperscript{152} by fostering trust in one's partner(s) and helping to eliminate suspicion, would also seem to help in this pursuit. The polyamorist community even has a word for the opposite of jealousy, or the experience that they call compersion, described as "feeling joy in the joy that others you love share among themselves, especially taking joy in the knowledge that your beloveds

\textsuperscript{149} See id. at 330. See also Serolynne, Poly and Jealousy, SEROLYNNE.COM, http://www.serolynne.com/poly_jealousy.htm (last visited Mar. 25, 2012) ("People who are polyamorous are not necessarily naturally less jealous .... Instead, polyamorous people tend to prefer to approach jealousy head on, instead of avoiding it all together. .... Jealousy is something you can work on and don't have to accept as being a part of your experience, or something that controls you or your partners.").

\textsuperscript{150} The Alt.polyamory FAQ, POLYAMORY.ORG, http://www.faqs.org/faqs/polyamory/faq/#b (last visited Mar. 25, 2012). The FAQ section of Loving More provides a similar answer to this question: Oh yes, many polys feel and deal with jealousy. However, unlike the mainstream norm, polys tend to see jealousy as something to master rather than be mastered by. They are willing to deal with it, talk about it, examine its causes, and see what they can learn from it. Some poly people are low-jealousy by nature; they're lucky. Others find that they have no jealousy in one situation but get blindsided by it in another. In such cases, polys tend to regard jealousy as a useful warning sign that some undiscovered problem is buried in the particular situation. .... [W]e can feel jealousy about all kinds of situations .... What matters is how we choose to look at it and act or react. Often jealousy is nothing more than personal insecurity or a fear of loss, and we can overcome those fears. Many people find that the more they deal with and move through jealousies that come up, the easier it gets.


\textsuperscript{151} See Emens, supra note 78, at 321 ("Anapol instructs .... 'let honesty be your teacher.' Rather than deny the existence of emotions like jealousy, polys encourage an honest interrogation of these feelings," (citation omitted)); Issa Waters, 20 Years of Polyamory: Jealousy, LOVE LIVE GROW (May 9, 2011), http://lovelivegrow.com/2011/05/20-years-of-polyamory-jealousy (explaining that sometimes "jealousy is just stupid," and that "sometimes jealousy is a sign" and highlighting the importance of telling the difference for one to work through it).

\textsuperscript{152} See Emens, supra note 78, at 322-25 (discussing the importance of radical honesty to the polyamorist philosophy).
are expressing their love for one another." 153 As Elizabeth Emens explains, "polys generally aim to develop and expand their compersion, while understanding, working through, and getting past jealous responses. In this way, they reject the common belief that jealousy signifies love, and they invert the standard hierarchy that lets jealousy trump desires for extrarelational sexual experience." 154

The notion of compersion points out another feature that we tend to associate with love, despite it certainly seeming in many ways at odds with jealousy. This is the idea that, as a science fiction writer once famously put it, "Love is that condition wherein another person’s happiness is essential to your own." 155 Philosopher Robert Nozick expands this idea in his essay, *Love’s Bond*, identifying this feeling of "[y]our own well-being [being] tied up with that of someone... you love" as what sets apart love from mere fondness, "like," or affection. 156 This seems to be consistent with our ideal of romantic love, and rather inconsistent with the idea of jealousy being an expression of love.

As with swingers, we may assume that individuals who fully embrace the polyamorous lifestyle for more than a brief trial period do so because they are able to manage any jealousy they experience well enough that it does not outweigh the perceived benefits of the lifestyle. Polyamorists, by embracing, and sometimes achieving, an ideal of romantic love without jealousy, are thus a testament to the invalidity of the third premise. Romantic love does not necessarily entail jealousy. Rather than being inevitable and unavoidable, it seems that people can do things to successfully manage jealous feelings; some even do so to the degree that they can feel joy at their beloved’s experiencing an emotional and sexual union with another.

Critics of this claim might argue that polyamorists could have an easier time working through jealousy over their partner’s other relationship(s) by virtue of the fact that they consented to these other relationship(s), and thus cannot claim a “right” to feel jealous in the first place. While it might help a

153. *Polyamory Terms*, supra note 144; see Emens, *supra* note 78, at 330. See also Serolynne, *supra* note 149 ("Polys have a word for the opposite of jealousy, it’s called compersion—and that’s the happiness at seeing your lover in a new relationship. And yes, it’s real and it can happen."). As an aside, *Loving More* defines jealousy as "1: the opposite of compersion 2: negative, angry feelings that a group or an individual can provoke [sic] in another group or individual 3: demanding complete devotion 4: suspicious of a rival or of one believed to enjoy an advantage 5: VIGILANT." *Polyamory Terms*, *supra* note 144.


155. Id., at 328 (citing Oberon Zell & Morning Glory Zell, *Poly Advice: What Are Some of the Usual Objections Raised Against the Poly Lifestyle?*, *LOVING MORE MAG.*, Fall 1998, at 26, 26 (quoting ROBERT HEINLEIN, Oberon, in *STRANGER IN A STRANGE LAND* (1961)).

156. See ROBERT NOZICK, *Love’s Bond*, in *THE EXAMINED LIFE: PHILOSOPHICAL MEDITATIONS* 68, 68 (1989) ("When a bad thing happens to a friend, it happens to her and you feel sad for her; when something good happens, you feel happy for her. When something bad happens to one you love, though, something bad also happens to you... If a loved one is hurt or disgraced, you are hurt; if something wonderful happens to her, you feel better off.").
polyamorist’s efforts to combat jealousy to remember this fact, this does not make the methods many polyamorists employ for working through jealousy, such as self-examination, open communication, and honesty, any less applicable to jealousy in monogamous relationships. An individual who feels jealousy over a possible rival to the affections of his partner with whom he has agreed to absolute monogamy may still be able to mitigate his jealousy in these same ways. First, he can examine the root of the feeling, to determine whether it arises simply in response to his own insecurities, or whether it might actually be an indication that something is amiss. Second, by openly communicating his feelings to his partner in a calm manner, he can alert her to his needs for reassurance, which, if given, could help him to feel less jealousy in the future. Third, it seems plausible that a relationship which places a high value on honesty might lead to an increased level of security by reducing suspicions and worries about deception. In this way, certain aspects of the polyamorist philosophy, were they to become more widespread, could actually help teach us that jealousy is not beyond our control, but rather something that we can, and most importantly, should work to reduce. Jealousy is not love; it is merely a side effect that sometimes accompanies it—one that can be managed with care.

III. RETHINKING POLYGAMY

Social change is slow, and it will likely take the convergence of several factors before jealousy can truly be knocked off its pedestal. That being said, change has to start somewhere, and given the close relation between jealousy and the conception of love as inherently exclusive, an attack of such a notion seems as logical a place as any. The fact that this might be achieved by elevating a movement that not only reconceptualizes jealousy but also includes a proactive stance toward mitigating its harm only adds to this option’s appeal. In this section, I will propose a number of legal reforms aimed at increasing acceptance of polyamory. It should be noted, however, that no legal change can take place without some measure of societal support, and such a measure is unlikely to have much of a cultural impact unless society is willing to accept it. The reforms proposed in this section should therefore not be read as a cure-all, but rather a step in the right direction.

As the scope of reforms that I will suggest here will not be limited to the polyamorous, a brief disambiguation of terms regarding polygamy and its cousins might be a useful place to begin. When most Americans picture polygamy, the first image that comes to mind is likely to be that of one husband with multiple wives. This is certainly the general perception of the Mormon
practice of polygamy,\textsuperscript{157} and this is the most visible and widely discussed form of the practice in this country.\textsuperscript{158} In fact, this description captures only one version of polygamy: specifically, “polygyny.”\textsuperscript{159} Though polygamy and polygyny are often conflated in everyday usage, polygyny is only one subset of polygamy; the other is “polyandry,” when a wife has more than one husband.\textsuperscript{160} Polyamory is related to these concepts in that it too involves more than two people. However, it may be distinguished by its lesser emphasis on marriage, its emphasis on the types of ideals discussed earlier,\textsuperscript{161} and its insistence that both males and females are allowed more than one partner. Despite these differences, the common ground of polygamy including both polygyny and polyandry and polyamory means that the fates of each of them are tied up with one another; any changes in the law that affect polygamous unions will inevitably effect polyamorous relationships as well, and vice-versa. For the sake of simplicity, I will therefore use “polygamy” from this point forward to refer to all forms of romantic relationships involving more than two people, whether of the secular, polyamorous variety, the traditional Mormon form, or neither, and use “monogamy” without regard to whether the members of the union considered themselves “married.”

I will proceed through the rest of this Section as follows. First, I will briefly describe the current social and legal status of polygamy in the United States.\textsuperscript{162} Next, I will summarize the argument for why the problem of jealousy might warrant greater societal acceptance of polygamy.\textsuperscript{163} I will then close the Section with several concrete suggestions for achieving this goal.\textsuperscript{164}

\textit{A. The Current Status of Polygamy in the United States}

Right around the time that jealousy’s reputation was being rehabilitated, polygamy’s was being sullied. Three years before the Sickles trial, in 1856, polygamy was termed, along with slavery, one of the “twin relics of barbarism” by the Republican Party platform.\textsuperscript{165} In 1878 the Supreme Court in \textit{Reynolds v. United States}\textsuperscript{166} upheld a federal anti-polygamy statute aimed at Mormons,
citing the long-standing prohibition against the practice in Europe\textsuperscript{167} and the states,\textsuperscript{168} and reasoning that because of the “evil consequences . . . supposed to flow from plural marriages,”\textsuperscript{169} such as despotism,\textsuperscript{170} there existed a secular justification for its criminalization.

Like the glorification of jealousy that accompanied them, such views of polygamy seem to have changed little over the years. Polygamy is still criminalized across the United States.\textsuperscript{171} The worry that greater recognition awarded to same-sex couples will open the floodgates to recognition of polygamous unions has oft been cited as a reason to oppose the former,\textsuperscript{172} and proponents of gay rights seem to take the undesirability of this consequence as a given, basing their efforts solely on denying the validity of the link between the two.\textsuperscript{173} Finally, the Gallup Poll has ranked polygamy among the most universally-deplored hot-button social issues over the last decade.\textsuperscript{174}

In his article, “Rock-Salting the Slippery Slope: Why Same-Sex Marriage is Not a Commitment to Polygamous Marriage,”\textsuperscript{175} James Donovan offers a clue to the unmitigated rancor expressed toward polygamy, one which largely confirms any suspicion of its link to jealousy. According to Donovan, fears that

\begin{footnotes}
\item[167.] Id. at 164 (noting that “[p]olygamy has always been odious among the northern and western nations of Europe, and, until the establishment of the Mormon Church, was almost exclusively a feature of the life of Asiatic and of African people.”).
\item[168.] Id. at 165.
\item[169.] Id. at 168.
\item[170.] Id. at 165-66 (citing approvingly Professor Francis Leiber’s findings that “polygamy leads to the patriarchal principle, and which, when applied to large communities, fetters the people in stationary despotism, while that principle cannot long exist in connection with monogamy.”).
\item[172.] See, e.g., Lawrence v. Texas, 539 U.S. 558, 599 (2003) (Scalia, J., dissenting) (comparing the interest furthered by a Texas law effectively banning homosexuality to the interests served by laws banning “fornication, bigamy, adultery, adult incest, bestiality, and obscenity” in arguing that the former should be allowed); Romer v. Evans, 517 U.S. 620, 648-51 (1996) (Scalia, J., dissenting) (arguing that one reason Colorado should be allowed to enact a referendum preventing any municipality in the state from recognizing homosexuals as a protected class is that otherwise there could be no justification for polygamy bans); \textit{Excerpt from Santorum Interview}, USATODAY.COM (Apr. 23, 2003, 10:37 AM), http://usatoday30.usatoday.com/news/washington/2003-04-23-santorum-excerpt_x.htm (quoting Senator Santorum as saying that “[i]f the Supreme Court says that you have the right to consensual (gay) sex within your home, then you have the right to bigamy, you have the right to polygamy, you have the right to incest, you have the right to adultery. You have the right to anything.”). \textit{See generally} Dahlia Lithwick, \textit{Slippery Slope}, SLATE (May 19, 2004, 6:36 PM), http://www.slate.com/articles/news_and_politics/jurisprudence/2004/05/slippery_slope.html (offering an overview of some of the slippery slope arguments made by judges, politicians, commentators and legal theorists, including Justice Antonin Scalia, Rick Santorum, and Bill O’Reilly).
\item[173.] Emens, \textit{supra} note 78, at 280 (“In response to the arguments that same-sex marriage will lead to a parade of horribles, proponents of same-sex marriage have not said, “So what?”; they have not defended polygamy or the other marginal practices in their opponents’ parade of horribles. Instead they have chosen to distinguish same-sex marriage from multiparty marriage.”). \textit{See, e.g.,} WILLIAM N. ESKRIDGE, JR., \textit{GAYLAW: CHALLENGING THE APARTHEID OF THE CLOSET} 280-81 (1999); Donovan, \textit{supra} note 41. In this sense, that greater recognition of polygamy would be an undesirable consequence seems to be one of the few things on which both sides of this debate can agree.
\item[174.] \textit{See supra} notes 80-82 and accompanying text.
\item[175.] Donovan, \textit{supra} note 41.
\end{footnotes}
recognition of same-sex marriage could result in recognition of polygamy are unwarranted given a fundamental distinction between the two: while same-sex unions are based on the same ideal of "romantic love" on which heterosexual, monogamous unions are based, polygamy is "by its design incompatible" with that ideal. This is because, he explains, romantic love is "necessarily exclusive." Donovan seeks to demonstrate this necessity in large part by arguing that "a marriage based on the romantic love... will absorb so much of our emotional interest and energy that, if we have truly achieved it with anyone, we cannot experience it with a second simultaneously." There may be, however, an alternative explanation that could account for a belief in such an incompatibility: the widespread perception that romantic love necessarily entails jealousy, and that romantic jealousy is an inevitable fact of human nature.

B. The Case for Greater Acceptance of Polygamy Based on Jealousy

As I aimed to show in Part II, the expression of jealousy varies across cultures, and cultural ideals may help to account for much of the variation. Our culture seems to be one that tolerates jealousy—perhaps too much, given the great harm that it can cause to society as well as to an individual’s wellbeing. There thus exists a strong incentive to rethink the way our culture looks at jealousy: to shift from viewing it as an inevitable and perhaps uncontrollable byproduct of romantic relationships toward viewing it as something that sometimes, but not always, accompanies love, and something that we can and should take efforts to try to manage.

As I suggested above, part of the widespread opposition to polygamy might be due to its subversion of the widely held belief that love necessarily entails jealousy. Given the incentive that we should have to undermine such a view, this feature of polygamy might actually be a compelling reason to advocate for its more widespread acceptance. If relationships with multiple partners were viewed as more acceptable, it would work to erode our culture’s concept of monogamy as the only acceptable option, and, in so doing, our belief in the universal and unavoidable nature of jealousy as well.

In becoming more accepting of polygamous relationships, we might actually strengthen our monogamous relationships in the process. First, the polyamorist’s apparent ability to work past jealousy in what most of us might regard as the most jealousy-inducing situations imaginable could empower the

176. By "romantic love," I mean that ideal as delineated by the very same definition I have used throughout this article.
177. Donovan, supra note 41, at 560.
178. Id. at 559-60.
179. Id. at 560.
180. See supra Section III.A.
monogamous among us to work through our own jealousy caused by lesser slights or fears, and its emphasis on honesty and open communication could serve as a model for monogamous dyads as well. Second, any reduction of the impact of jealousy could lead to a welcome reduction in spousal homicides and abuse. It might even lead to a reduction in the dissolution of monogamous relationships. Aside from jealousy being one of the more reliable predictors of divorce, the viability of polygamy might help to ensure that only those who truly wish to be monogamous enter into monogamous relationships in the first instance. This in turn could reduce the incidence of infidelity, another strong predictor of relationship dissolution.

There thus seem to be multiple factors at play which advocate for greater acceptance of polygamy in our society. The next question is how we might achieve such an aim.

C. Ways in Which Greater Acceptance of Polygamy Could be Achieved

There are a number of ways in which society could begin to work toward greater acceptance of polygamy, and polyamory along with it. If what we strive for is full acceptance, the goal ultimately might be to legalize polygamy in the sense of making it possible for polygamous partners to marry one another. No other solution seems to offer the same promise of recognition of these types of relationships. However, because this goal is probably unrealistic at this point given the current climate of the marriage debates, I will focus on some smaller concessions that lawmakers might be more willing to make.

As Emens argues, a logical first step would be to repeal the adultery laws still in force in “nearly half the states.” Because many practicing polyamorists and polygamists may actually be legally married to one of the individuals in their relationship, they are technically practicing adultery by becoming sexually involved with others. In other words, these laws may often have the effect of criminalizing polygamous unions even when their members do not seek formal recognition by the state. Though these laws are rarely enforced, they always could be enforced, and they stand in affirmation of the view that monogamy is the only “acceptable” option.

Emens suggests another way to deal with the adultery laws, however, that could be even more effective. Since one way that polygamy could gain greater acceptance would be through individuals coming to view it as a viable alternative to monogamy, the law should encourage this to the extent that it can. Emens suggests that one way to operationalize this would be to, rather

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181. See supra notes 58-61 and accompanying text.
182. Emens, supra note 78, at 364.
183. Id.
184. Id.
than repeal adultery laws, modify them from immutable laws to default rules, so that couples could choose when getting married whether they would prefer any infidelity within their marriage to fall under the ambit of the adultery law—in other words, to be criminalized—or whether they would prefer that this law not apply in their case. This would not only better protect the rights of those who know from the outset that they wish their marriage to be open, but might also encourage couples to discuss the terms of their relationship more openly prior to deciding to marry.\textsuperscript{185}

Another approach could be the one suggested by Tweedy—that of including polyamorists within the ambit of antidiscrimination laws.\textsuperscript{186} This would presumably protect both self-defined “polyamorists” as well as other polygamists, since legally distinguishing one from the other would be difficult, and thus could lead to greater acceptance and recognition of both. Many of the problems that these individuals face, such as discrimination in employment, zoning laws that prohibit co-habitation of unrelated individuals,\textsuperscript{187} and the refusal of child custody based on their lifestyle,\textsuperscript{188} might be solved or at least mitigated by such a solution.

In the end, however, the most effective way to attain more widespread acceptance of polygamy might be through increasing awareness about the issue. If the general public comes to realize that polygamy is not limited to polygyny, and becomes educated about the tenets of polyamory, with its emphasis on honesty, consensus, and meaningful relationships, it might come to regard polygamy as a legitimate lifestyle choice on its own, even without the added protections of the law. And in so doing, the public might come to reconsider the view that jealousy is a necessary constituent of romantic love.

IV. CONCLUSION

In this Note, I have advocated for a revision of the traditional view of jealousy as a reliable and irrepressible indicator of romantic love. I have argued that this view is invidious, contributing to a general tolerance of jealousy, when in fact we ought to regard jealousy as a potentially harmful force that individuals should seek to contain. In support of this argument, I have presented evidence of the harm that jealousy wreaks on society and findings that suggest that the experience of jealousy is neither universal nor beyond our control. I turned to the movement of polyamory as a counter-example to claims

\textsuperscript{185} See id. at 364-65. For an example of what a statute of this sort might look like, see id. at 368.


\textsuperscript{187} See Emens, supra note 78, at 354 n.415 (citing Ryan Nearing, Poly Political Animals Speak, LOVING MORE MAG., Winter 1996, at 22).

\textsuperscript{188} See id. at 310-12 (citing In re A.M., No. K1719 (Juv. Ct., Memphis and Shelby County, Tenn. 1999) (illustrating this point with the story of April Divilbiss, who was denied custody of her child explicitly on the basis of her polymorous lifestyle).
of jealousy's inextricability with love. Drawing on approaches advocated by this movement's practitioners, I explored ways in which individuals may take proactive steps to work through and ultimately reduce their jealousy, using it in constructive rather than destructive ways. Finally, I argued that greater acceptance of polygamy as a viable lifestyle choice might actually reduce the harmful impact of jealousy in America, and discussed some possible steps that could be taken toward this end.

The typical polyamorist's advice regarding jealousy is to first consider its source as a means for determining how best to work through it, lest one hasten to blame one's partner for a problem that truly stems from within. I would like to apply this sage advice to the perception of threats of another sort; specifically, the threat to one's unexamined intuitions and beliefs. In this Note, I have suggested that there is value in reacting to a perceived threat to such beliefs not by summarily dismissing or denouncing those who represent it, but instead by using it as an opportunity to critically examine the convictions that appear to be in jeopardy, and those assumptions on which they are based. Only through such critical examination can one truly parse out the one's worth holding onto from those better left discarded. In this case, I hope to have shown that while our collective belief in the value of romantic love is indisputably among the former, our acceptance of jealousy and its consequences is not; and it is no contradiction to suggest that we keep the one while abandoning the other.
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